



General Assembly

February Session, 2008

Raised Bill No. 5843

LCO No. 2626

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Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING ENTERTAINMENT INDUSTRY TAX CREDITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 12-217jj of the 2008 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (b) (1) The Connecticut Commission on Culture and Tourism shall
5 administer a system of tax credit vouchers within the resources,
6 requirements and purposes of this section for eligible production
7 companies producing a state-certified qualified production in the state.
8 For income years commencing on or after January 1, [2007] 2006, any
9 eligible production company incurring production expenses or costs in
10 excess of fifty thousand dollars shall be eligible for a credit against the
11 tax imposed under chapter 207 or this chapter equal to thirty per cent
12 of such production expenses or costs, provided (A) on and after
13 January 1, 2009, fifty per cent of such expenses or costs shall be
14 counted toward such credit when incurred outside the state and used
15 within the state, and one hundred per cent of such expenses or costs
16 shall be counted toward such credit when incurred within the state
17 and used within the state, and (B) on and after January 1, 2012, no

18 expenses or costs incurred outside the state and used within the state
19 shall be eligible for a credit, and one hundred per cent of such
20 expenses or costs shall be counted toward such credit when incurred
21 within the state and used within the state.

22 (2) [Any] On and after July 1, 2006, and for income years
23 commencing on or after January 1, 2006, any credit allowed pursuant
24 to this subsection may be sold, assigned or otherwise transferred, in
25 whole or in part, to one or more taxpayers, provided no credit, after
26 issuance, may be sold, assigned or otherwise transferred, in whole or
27 in part, more than three times.

28 (3) [Any] On and after July 1, 2006, and for income years
29 commencing on or after January 1 2006, any such credit allowed under
30 this subsection shall be claimed against the tax imposed under chapter
31 207 or this chapter for the income year in which the production
32 expenses or costs were incurred, and may be carried forward for the
33 three immediately succeeding income years. Any production tax credit
34 allowed under this subsection shall be nonrefundable.

35 Sec. 2. Section 12-217ll of the 2008 supplement to the general statutes
36 is repealed and the following is substituted in lieu thereof (*Effective July*
37 *1, 2008, and applicable to income years commencing on or after January 1,*
38 *2008*):

39 (a) As used in this section:

40 (1) "Commissioner" means the Commissioner of Revenue Services.

41 (2) "Commission" means the Connecticut Commission on Culture
42 and Tourism.

43 (3) "Digital animation production company" means a corporation,
44 partnership, limited liability company or other business entity engaged
45 exclusively in digital animation production activity on an ongoing
46 basis, and that is qualified by the Secretary of the State to engage in
47 business in the state.

48 (4) "State-certified digital animation production company" means a
49 digital animation production company that (A) maintains studio
50 facilities located within the state at which digital animation production
51 activities are conducted, (B) employs at least two hundred full-time
52 employees within the state, (C) is in compliance with regulations
53 adopted pursuant to subsection (h) of this section, and (D) has been
54 certified by the commission.

55 (5) "Digital animation production activity" means the creation,
56 development and production of computer-generated animation
57 content for distribution or exhibition to the general public, but not for
58 the production of any material for which records are required to be
59 maintained under 18 USC 2257 with respect to sexually explicit
60 content.

61 (6) "Full-time employee" means an employee required to work at
62 least thirty-five hours or more per week, and who is not a temporary
63 or seasonal employee.

64 (7) "Post-certification remedy" means the recapture, disallowance,
65 recovery, reduction, repayment, forfeiture, decertification or any other
66 remedy that would have the effect of reducing or otherwise limiting
67 the use of a tax credit provided by this section.

68 (8) "Production expenses or costs" means all expenditures clearly
69 and demonstrably incurred in the state in the development,
70 preproduction, production or postproduction costs of a digital
71 animation production activity, including:

72 (A) Expenditures for optioning or purchase of any intellectual
73 property including, but not limited to, books, scripts, music or
74 trademarks relating to the development or purchase of a script,
75 screenplay or format, to the extent that such expenditures are less than
76 thirty-five per cent of the production expenses or costs incurred by a
77 digital animation production company in any income year. Such
78 expenses or costs shall include all expenditures generally associated

79 with the optioning or purchase of intellectual property, including
80 option money, agent fees and attorney fees relating to the transaction,
81 but shall not include any and all deferrals, deferments, profit
82 participation or recourse or nonrecourse loans which the digital
83 animation production company may negotiate in order to obtain the
84 rights to the intellectual property;

85 (B) Expenditures incurred in the form of either compensation or
86 purchases including production work, production equipment not
87 eligible for the infrastructure tax credit provided in section 12-217kk of
88 the 2008 supplement to the general statutes, production software,
89 postproduction work, postproduction equipment, postproduction
90 software, set design, set construction, props, lighting, wardrobe,
91 makeup, makeup accessories, special effects, visual effects, audio
92 effects, actors, voice talent, film processing, music, sound mixing,
93 editing, location fees, soundstages, rent, utilities, insurance,
94 administrative support, systems support, all reasonably-related
95 expenses in connection with digital animation production activity, and
96 any and all other costs or services directly incurred in the state in
97 connection with a state-certified digital animation production
98 company;

99 (C) Expenditures for distribution, including preproduction,
100 production or postproduction costs relating to the creation of trailers,
101 marketing videos, short films, commercials, point-of-purchase videos
102 and any and all content created on film or digital media, including the
103 duplication of films, videos, CDs, DVDs and any and all digital files
104 now in existence and those yet to be created for mass consumer
105 consumption; the purchase, by a company in the state, of any and all
106 equipment relating to the duplication or mass market distribution of
107 any content created or produced in the state by any digital media
108 format which is now in use and those formats yet to be created for
109 mass consumer consumption; and

110 (D) "Production expenses or costs" does not include the following:

111 (i) Compensation in excess of fifteen million dollars paid to any
112 individual or entity representing an individual, for services provided
113 in a digital animation production activity; (ii) media buys, promotional
114 events or gifts or public relations associated with the promotion or
115 marketing of any digital animation production activity; (iii) deferred,
116 leveraged or profit participation costs relating to any and all personnel
117 associated with any and all aspects of the production, including, but
118 not limited to, producer fees, director fees, talent fees and writer fees;
119 (iv) costs relating to the transfer of the digital animation tax credits;
120 and (v) any amounts paid to persons or businesses as a result of their
121 participation in profits from the exploitation of the digital animation
122 production activity.

123 (b) (1) The Connecticut Commission on Culture and Tourism shall
124 administer a system of tax credit vouchers within the resources,
125 requirements and purposes of this section for digital animation
126 production companies undertaking digital animation production
127 activity in the state. For income years commencing on or after January
128 1, 2007, any state-certified digital animation production company
129 incurring production expenses or costs in excess of fifty thousand
130 dollars shall be eligible for a credit against the tax imposed under
131 chapter 207 or this chapter, equal to thirty per cent of such production
132 expenses or costs.

133 (2) Any credit allowed pursuant to this section may be sold,
134 assigned or otherwise transferred, in whole or in part, to one or more
135 taxpayers, provided no credit, after issuance, may be sold, assigned or
136 otherwise transferred, in whole or in part, more than three times.

137 (3) Any credit allowed pursuant to this section shall be claimed
138 against the tax imposed under chapter 207 or this chapter, for the
139 income year in which the production expenses or costs were incurred,
140 and may be carried forward for the three immediately succeeding
141 income years. Any digital animation tax credit allowed under this
142 section shall be nonrefundable.

143 (4) Any digital animation production company receiving a digital
144 animation tax credit pursuant to this section shall not be eligible to
145 apply for or receive a tax credit pursuant to section 12-217jj of the 2008
146 supplement to the general statutes.

147 (c) Not more frequently than twice during the income year of a
148 state-certified digital animation production company, such company
149 may apply to the commission for a digital animation tax credit
150 voucher, and shall provide with such application such information and
151 independent certification as the commission may require pertaining to
152 the amount of such company's production expenses or costs incurred
153 during the period for which such application is made. If the
154 commission determines that the company is eligible to be issued a tax
155 credit voucher, the commission shall enter on the voucher the amount
156 of production expenses and costs incurred during the period for which
157 the voucher is issued and the amount of tax credits issued pursuant to
158 such voucher. The commission shall provide a copy of such voucher to
159 the commissioner upon request.

160 (d) If a state-certified digital animation production company sells,
161 assigns or otherwise transfers a credit under this section to another
162 taxpayer, the transferor and transferee shall jointly submit written
163 notification of such transfer to the commission not later than thirty
164 days after such transfer. If such transferee sells, assigns or otherwise
165 transfers a credit under this section to a subsequent transferee, such
166 transferee and such subsequent transferee shall jointly submit written
167 notification of such transfer to the commission not later than thirty
168 days after such transfer. The notification after each transfer shall
169 include the credit voucher number, the date of transfer, the amount of
170 such credit transferred, the tax credit balance before and after the
171 transfer, the tax identification numbers for both the transferor and the
172 transferee, and any other information required by the commission.
173 Failure to comply with this subsection will result in a disallowance of
174 the tax credit until there is full compliance on the part of the transferor
175 and the transferee, and for a second or third transfer, on the part of all

176 subsequent transferors and transferees. The commission shall provide
177 a copy of the notification of assignment to the commissioner upon
178 request.

179 (e) Any state-certified digital animation production company that
180 wilfully submits information to the commission that it knows to be
181 fraudulent or false shall, in addition to any other penalties provided by
182 law, be liable for a penalty equal to the amount of such company's
183 credit entered on the digital animation tax credit certificate issued
184 under this section.

185 (f) The issuance by the commission of a digital animation tax credit
186 voucher with respect to an amount of tax credits stated thereon shall
187 mean that none of such tax credits are subject to a post-certification
188 remedy, and that the commission and the commissioner shall have no
189 right, except in the case of possible material misrepresentation or
190 fraud, to conduct any further or additional review, examination or
191 audit of the expenditures or costs for which such tax credits were
192 issued. If at any time after the issuance of a tax credit voucher the
193 commission or the commissioner determines that there was a material
194 misrepresentation or fraud on the part of a state-certified digital
195 animation production company in connection with the submission of
196 an expense report and the result of such material misrepresentation or
197 fraud was that (1) a specific amount of tax credits was reflected on the
198 tax credit voucher issued in response to such expense report that
199 would not have otherwise been so reflected, and (2) such tax credits
200 would otherwise be subject to a post-certification remedy, such tax
201 credits shall not be subject to any post-certification remedy and the
202 sole and exclusive remedy of the commission and the commissioner
203 shall be to seek collection of the amount of such tax credits from the
204 digital animation production company that committed the fraud or
205 misrepresentation, not from any transferee of the tax credits.

206 (g) The aggregate amount of all tax credits which may be reserved
207 by the commission pursuant to this section shall not exceed fifteen

208 million dollars in any one fiscal year, except the amount of tax credits
 209 which may be reserved by the commission pursuant to this section
 210 may be increased to not more than twenty-five million dollars in any
 211 one fiscal year provided the digital animation production company for
 212 which such tax credits are reserved (1) has proposed to undertake an
 213 infrastructure project that has been designated by the commission,
 214 prior to January 1, 2008, to constitute a state-certified project pursuant
 215 to section 12-217kk of the 2008 supplement to the general statutes, (2)
 216 has executed, prior to June 30, 2008, a binding lease for not less than
 217 ten years for a facility in which to conduct digital animation
 218 production activities in this state, and (3) is relocating digital
 219 animation production activities conducted in another state to this state.

220 (h) The commission, in consultation with the commissioner, shall
 221 adopt regulations, in accordance with the provisions of chapter 54, as
 222 may be necessary for the administration of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-217jj(b)
Sec. 2	<i>July 1, 2008, and applicable to income years commencing on or after January 1, 2008</i>	12-217ll

Statement of Purpose:

To make changes in the tax credits for the entertainment industry, to encourage its continuing growth in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]